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OHV GRANT AND COOPERATIVE AGREEMENT PROGRAM REGULATIONS CCR Title 14, Division 3, Chapter 15, Sections 4970.00 - 4970.32.

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ARTICLE 1 – GENERAL PROVISIONS

4970.00 DEFINITIONS

The words used in this chapter have the following meanings:

- (a) “Allocation” means a distribution of funds, or an expenditure limit established for an organizational unit or function.
- (b) “Amendment to a Project Agreement” means a change or clarification in the scope of a project that is within the original intent and purpose of the project, not requiring Commission approval (e.g., change in project performance period, purchase of previously unidentified equipment, or redirection of funds between conservation and enforcement).
- (c) “Annual Performance Review” means elements to be reviewed by OHMVR Division staff as part of a comprehensive program review conducted of grantees.
- (d) “Application” means a compilation of required documents to support a request for funding for an OHV grant or cooperative agreement.
- (e) “Appropriation” means a budget authorization from a specific fund to an applicant or program to make expenditures or incur obligations for a specific purpose and period of time.
- (f) “ATV” means an all-terrain vehicle, a vehicle designed for operation off the highway by an operator with no passengers; 50 inches or less in width; 900 pounds or less unladen weight; suspended on three or more low-pressure tires; has a single seat designed to be straddled by the operator, and has handlebars for steering control.
- (g) “Buffer” refers to land or physical obstacles used to protect plant and wildlife habitat, soils, viewsheds, or reduce off-site noise impacts.
- (h) “CEQA” means the California Environmental Quality Act, Public Resources Code (PRC) Section 21000 et seq.; Title 14, California Code of Regulations (CCR) Section 15000 et seq. -
- (i) “C&E” means conservation and enforcement activities as defined in PRC Sections 5090.64(b)(1) and (2).
- (j) “Casual” means non-competitive OHV recreation.
- (k) “Certified” means a document that has been reviewed, approved, and signed by both the grantee and the Division.
- (l) “Commission” means the Off-Highway Motor Vehicle Recreation (OHMVR) Commission.
- (m) “Conflicts” means new or ongoing OHV issues involving agencies, principal, or interested parties.
- (n) “Conservation” means activities, practices, and programs that sustain soil, plants, wildlife and their habitat, and natural and cultural resources as referenced in PRC Sections 5090.10, 5090.35, and 5090.50.
- (o) “Control Language” means conditions added to the scope of an OHV project by the Commission.
- (p) “Cooperative Agreement” means an agreement between the Division and a federal agency, or a federally recognized Native American tribe.
- (q) “Cultural Resources” are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; are associated with the lives of persons important in our past; embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or has yielded, or may be likely to yield, information important in prehistory or history. Cultural resources also include Historical Resources. A resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria

for listing on the California Register of Historical Resources (PRC Section 5024.1, Title 14 CCR, Section 4852).

- (r) "Deliverables" means the specific proposed accomplishments contained within each application.
- (s) "Department" means California Department of Parks and Recreation (DPR).
- (t) "Development" means the construction of new facilities, trails, or trail segments.
- (u) "Director" means Director of the California DPR.
- (v) "Division" means the Division of Off-Highway Motor Vehicle Recreation (OHMVR) of the California DPR.
- (w) "Enforcement" means the employing, equipping, and supervising of law enforcement personnel for the purpose of protecting natural and cultural resources; enforcement of Division 16.5 (commencing with Section 38000) of the California Vehicle Code (CVC); enforcement of PRC Sections 4442 and 4442.5 and the enforcement of other laws regulating the equipment and use of off-highway motor vehicles.
- (x) "Environmental Document" means a document prepared in accordance with NEPA or CEQA.
- (y) "Federal Agency" means a unit of the federal government.
- (z) "Fiscal Audit" means elements to be reviewed by Audit Division staff as part of a comprehensive project agreement review conducted of grantees.
- (aa) "Force Account" means work performed by grantee personnel.
- (bb) "Fund" means the Off-Highway Vehicle Trust Fund as created by subdivision (c) of Section 38225, CVC.
- (cc) "Grantee" means the recipient of OHV funding from a grant or cooperative agreement.
- (dd) "Law Enforcement Personnel" include officers or employees of the grantee who have the authority and duty to enforce statutes or ordinances, issue citations, or arrest persons for violations. For purposes of this section, "ordinance" includes an order, rule, or regulation enforceable under the authority of the grantee.
- (ee) "Local Agency" means a city, county, or special district.
- (ff) "Maintenance" means the work required to ensure effective and efficient use of physical facilities, the protection of natural and cultural resources, and OHV recreation opportunities.
- (gg) "Major Maintenance" means the reconstruction and repair of existing facilities, trails or trail segments, or re-routes over 1/4 mile in length and associated restoration. Major maintenance requires environmental documentation, typically a categorical exemption or negative declaration. All maintenance and development projects that require an Environmental Impact Statement (EIS) or Environmental Impact Report (EIR) to be compliant with environmental laws will also be considered major maintenance or development. Repairs that do not require environmental documentation, but have costs that meet or exceed \$5,000, are also defined as major maintenance.
- (hh) "Minor Trail Relocation" means the closure and restoration of an existing trail and the construction of a replacement as close as possible to the original trail (not to exceed 1/4 mile in length) and located so that the problems necessitating the closure will be eliminated.
- (ii) "Monitoring" means data collection used by a land-management agency and the Division to make appropriate decisions.
- (jj) "Native American tribes" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which the Secretary of the Interior recognizes as eligible

for the special programs and services provided by the United States to Indians because of their status as Indians.

- (kk) "NEPA" means the National Environmental Policy Act pursuant to United States Code (U.S.C.) Title 42, Section 4371; 40 Code of Federal Regulations (CFR) part 1500.1 et seq.
- (ll) "Non-profit" means an organization having tax-exempt status pursuant to Section 501(c) (3) of the Internal Revenue Code.
- (mm) "Off-highway Vehicle Operation" means the operation of motorized vehicles on lands, roads, and trails, or private property that is approved for OHV use, that is open, and accessible to the public, and has been designated for motor vehicle use.
- (nn) "OHV" means an off-highway motor vehicle as specified in CVC Section 38006 and street licensed motor vehicles while being used off highway.
- (oo) "OHV Grant" means an agreement between the Division and a local agency or non-profit organization to perform a project.
- (pp) "OHV Opportunities" means providing areas that allow legal OHV recreation.
- (qq) "Operation" means the staff and equipment required for site administration, visitor supervision, and assistance.
- (rr) "PAR" means Project Accomplishment Report (4/2000), a form defined in Section 4970.12 of these regulations.
- (ss) "Project" means the work to be accomplished, either proposed or approved, with funding through an OHV Grant or Cooperative Agreement.
- (tt) "Project Agreement" means a contract executed to formally implement an approved project. This term is used interchangeably with an OHV Grant or Cooperative Agreement.
- (uu) "Project Performance Period" means the time period that the Project Agreement is in effect and the time in which the project must be completed.
- (vv) "Regional OHV Facility" means a facility that meets the criteria adopted by the Commission per PRC Section 5090.51(b).
- (ww) "Repair of trails, roads, and areas" means, upon determination that the soil loss standards and habitat protection plans are not being met in any area in the system, the Division shall direct the grant recipient to repair that area, or portion thereof funded by OHV funds, to prevent accelerated erosion until soil loss standards and habitat protection plans are met. This includes requiring temporary closure of areas for repair purposes.
- (xx) "Re-scope" means a change in the scope of a Project Agreement that is different from the intent of the original certified Project Agreement.
- (yy) "Restoration" means, upon closure of an OHV unit or any portion thereof, the restoration of land to the contours, the plant communities, and plant covers comparable to those on surrounding lands, or at least those that existed prior to off-highway motor vehicle use.
- (zz) "Roads" include: logging roads, service roads, and other roughly graded roads upon which vehicular travel is permitted (CVC 38000).

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5024.1, 5090.04, 5090.05, 5090.06, 5090.07, 5090.10, 5090.11, 5090.35, 5090.50, 5090.51 and 5090.64(b)(1) and (2), PRC; CVC Sections 38000, 38006, 38012, and 38225(c); 25 U.S.C. 479a and 479a-1; 42 U.S.C. 4371; 43 U.S.C. 1601-1624; 40 CFR part 1500.1 et seq; U.S. Internal Revenue Code, Section 501(c)(3).

4970.01 PROGRAM PURPOSE

The purpose of the OHV grants and cooperative agreements program is to provide financial assistance to agencies and organizations, as set forth in 4970.10(a), and to develop and maintain high quality OHV programs that responsibly maintain the wildlife, soils, and habitat of areas in a manner that will sustain long term OHV recreation. Land managers will attempt to prevent OHV trespass onto private lands, or public lands not designated for OHV operation, and to minimize conflicts with other users.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.10, 5090.32(d), 5090.35, 5090.50, and 5090.53(b)(4), PRC.

ARTICLE 2 - TYPES OF PROJECTS

4970.02. PLANNING PROJECTS AND STUDIES

- (a) Planning projects are intended to evaluate and determine the viability of an area or project prior to the commitment of acquisition, development, or resource management funds.
- (b) Planning projects will include, at a minimum, the following:
 - (1) An inventory of features, including: plants, animals, cultural resources, roads, trails, and routes.
 - (2) A wildlife habitat protection program (PRC 5090.35).
 - (3) Geologic survey and slope maps or topographic maps.
 - (4) Toxic or hazardous waste site survey of the area and adjacent property that may impact the site.
 - (5) An analysis of the potential effects of OHV recreation on adjacent lands, residents, and potential conflict with other recreational users.
 - (6) An evaluation of OHV recreation on air and water quality.
- (c) The preparation of an environmental document prepared in conformance with CEQA or NEPA will be considered a project.
- (d) The preparation of a Recreation Management Plan, OHV Plan, or the OHV portion of a General Plan will be considered a project. A General Plan, Recreation Management Plan, and OHV Plan are documents prepared by cities, counties, and agencies to guide the management of the land within their jurisdiction.
- (e) If the project scope is to prepare an environmental document, the Division shall receive a copy of the completed environmental document as proof of project fulfillment.
- (f) Studies on OHV recreation may include those that address:
 - (1) Potential effects of OHV recreation on natural and cultural resources.
 - (2) Potential effects between OHV recreation and other recreation uses.
 - (3) Potential effects of OHV recreation on adjacent lands.
 - (4) Potential effects between OHV recreation and local residents.
 - (5) Further technological advances to reduce noise and air pollution from OHV's.
 - (6) Development of route inventories.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, 5090.35, and 5090.50, PRC.

4970.03. ACQUISITION PROJECTS

- (a) Acquisition projects are intended to expand, assure, and maintain adequate OHV recreation access or opportunities, eliminate trespass, and provide appropriate buffers to sustain OHV opportunity.
- (b) Acquisition projects may include any of the following:
 - (1) Purchase of right-of-way or easement.
 - (2) Purchase of long-term lease.
 - (3) Purchase of land in fee title.
- (c) Eligible costs for projects may include, but are not limited to the following:
 - (1) Land purchase.
 - (2) Appraisal.
 - (3) Escrow fees.
 - (4) Title insurance.
 - (5) Title report.
 - (6) Land survey.
 - (7) Wildlife, habitat, soil, and cultural surveys.
- (d) All acquisitions shall be acquired in compliance with Chapter 16 (commencing with Section 7260), Division 7, Title 1, Government Code.
- (e) The grantee will provide the Division with the required acquisition certification.
- (f) It is the applicant's responsibility to obtain an independent technical review of the appraisal report.
- (g) Appraisals will be prepared in accordance with standard state or federal appraisal practices.
- (h) The Acquisition Certification Form shall be used by the grantee; a copy of the form is included in the Grant Application Guide (June 2000).
- (i) The Acquisition Certification Form (4/2000) will include the following certifications:
 - (1) The appraisal report was independently reviewed and approved.
 - (2) A statement of just compensation was provided to the property owner and the offer to purchase was not less than the appraised value.
 - (3) If the offer/purchase was less than appraised value it was because the acquisition was pursuant to voluntary sale provisions of state law and a just compensation offer was not required.
 - (4) The title acquired is free and clear of any adverse title conditions.
 - (5) The legal description matches the appraised property and has been checked with the Assessor's Parcel Map in the County Recorder's Office.
 - (6) The acquisition map and description are accurate as to the property boundaries and known easements.
 - (7) Added exceptions or conditions have been considered in the value (revised appraisal) as appropriate and are documented.
 - (8) For improved properties, a relocation assistance program is in place and a relocation plan was prepared.
 - (9) Occupants were provided with a brochure detailing benefits and eligibility requirements for relocation assistance and payments.
 - (10) Agency certifies compliance with Government Code Sections 7260 et seq.
- (j) The Acquisition Certification Form will be completed, signed, and dated by the grantee's designated authority.

- (k) For acquisition of land or facilities for OHV recreation, the Division shall disburse funds for the purchase price and eligible acquisition costs, but not to exceed in any event the allowable OHV grant costs set forth in the Project Agreement.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, 5090.35, and 5090.53, PRC; Chapter 16 (commencing with Section 7260), Division 7, Title I, Government Code.

4970.04. DEVELOPMENT AND MAJOR MAINTENANCE PROJECTS

- (a) Development and major maintenance projects are intended to provide sustained long-term OHV use.
- (b) Competition and spectator facilities are eligible for funding. Casual OHV use will constitute the primary activity in all OHV grant and cooperative agreement funded areas; competitive use shall not exceed 40% of the total use in areas maintained and managed with OHV grant funds.
- (c) The following are examples of development and major maintenance projects:
- (1) Trail construction; reconstruction and repair of existing facilities, trails or trail segments; or re-routes over ¼ mile in length and associated restoration.
 - (2) Trailhead/staging area construction.
 - (3) Restroom construction.
 - (4) Fencing.
 - (5) Signing.
 - (6) Road construction.
 - (7) Picnic and camping facilities construction.
 - (8) Facilities that will minimize conflict with other recreationists or private land-owners.
 - (9) Major maintenance associated with existing facilities that were funded in the past with OHV grant funding (i.e., repaving existing parking lots or roads, major repairs to staging areas or structures).
- (d) Development and major maintenance projects shall require Division approval of plans and specifications before construction begins.
- (e) Plans for structural items such as bridges, buildings, utilities, and parking lots shall be approved by an engineer or architect duly licensed as required by the Business and Professions Code.
- (f) Local agencies or their contractors shall pay prevailing wages as listed by the California Department of Industrial Relations.
- (g) The grantee shall complete the development and major maintenance project in accordance with the Division approved plans and specifications.
- (h) The grantee shall submit to the Division for approval, any deviation of 10% or more in the cost of the facility or a change in the size of the facility or structure.
- (i) Grantees are required to meet all appropriate access requirements under State or Federal law as applicable including, without limitation, the Americans with Disabilities Act of 1990 (Public Law 101-336, July 26, 1990, 104 Stat 327).

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, and 5090.50, PRC; Public Law 101-336, July 26, 1990, 104 Stat. 327.

4970.05. OPERATION AND MAINTENANCE (O&M) PROJECTS

- (a) O&M projects are intended for annually recurring work directed toward facilities, natural and cultural resources, visitor assistance, and visitor safety directly attributable to OHV recreation.
- (b) Examples of O&M activities include, without limitation, the following:
 - (1) Facility servicing.
 - (2) Volunteer use and coordination.
 - (3) Visitor services.
 - (4) Site and program administration.
 - (5) Law enforcement including employing, equipping, and supervising law enforcement personnel.
 - (6) Snow plowing.
 - (7) Trash collection.
 - (8) First aid equipment and supplies.
 - (9) Map/brochure design and printing.
 - (10) Construction of physical barriers and other means of traffic control.
 - (11) Trail maintenance.
 - (12) Routine monitoring and surveys.
 - (13) Minor trail relocation (trail segments that are under 1/4 mile in length).
 - (14) Cultural resource mitigation/protection.
 - (15) Purchase of tools and equipment under \$5,000 (excluding tax).
 - (16) Sign boards, regulatory, and directional signs.
 - (17) Minor maintenance for repair of facilities that does not require environmental documentation beyond a categorical exclusion or negative declaration, and the cost for the project is below \$5,000.
- (c) O&M grants to Local Agencies require 25% in matching funds or equivalent value in services of the total expense of the project. Matching funds may be in the form of cash, equivalent value of services, material, or property used.

NOTE: Authority cited: Sections 5001.5, and 5003, PRC.

Reference cited: Sections 5090.32, and 5090.50, PRC.

4970.06. RESOURCE MANAGEMENT PROJECTS

- (a) Resource management projects are intended to conserve, restore, or repair natural and cultural resources in an effort to maintain environmentally balanced OHV recreation, or to provide data that will allow for appropriate management decisions related to natural and cultural resource issues.
- (b) Resource management is a one-time-only project made up of either one or more sub-activities:
 - (1) conservation, (2) restoration, and (3) repair of trails, roads, and areas.
- (c) Conservation, restoration, and repair of trails, roads, and areas must be related to the impacts of OHV activity.
- (d) Examples of resource management activities are as follows:
 - (1) Conservation, restoration, or repair of roads, trails, and areas plans or projects.
 - (2) Wildlife habitat protection plans or projects.
 - (3) Soil monitoring plans.
 - (4) Wildlife habitat surveys.
 - (5) Soil surveys.

- (6) Sensitive habitat fencing, repair, and signing.
- (7) Sediment control structures.
- (8) Resource conservation education projects.
- (9) Hardening of stream crossings and/or the construction of bridges to improve or maintain water quality, or to protect habitat or wildlife.
- (10) Trail or route closure, and subsequent restoration of natural soils and vegetation.
- (11) Studies to determine the possible effects of OHV recreation on wildlife, vegetation, cultural resources, and soils for the purpose of implementing a resource management project.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5024.1, 5090.10, 5090.32, 5090.35, and 5090.50, PRC.

4970.07. SAFETY AND/OR EDUCATION PROGRAM PROJECTS

- (a) Safety and/or education projects are intended to teach safe and environmentally responsible operation of OHVs; examples may involve development of the following types of education materials:
 - (1) Snowmobile safety checklists.
 - (2) ATV safety video.
 - (3) ATV safety handbook.
 - (4) 4WD safety course.
 - (5) Towing safety tips booklet.
 - (6) Noise education documents.
- (b) A safety and/or education project requires 25% in matching funds, or the equivalent value of services or materials, of the total expense of the program.
- (c) In awarding grants or entering into cooperative agreements or contracts for safety and/or education projects, the Division shall give priority to applications that demonstrate the following:
 - (1) Cost-efficiency.
 - (2) Availability of capital, and the potential for the project to become financially self-supporting for future safety programs.
 - (3) Instruction involving a large number of enthusiasts.
 - (4) A program involving a large geographical distribution.
 - (5) A program that has user-group involvement and support.
 - (6) An emphasis on junior operators and a variety of vehicle types.
- (d) Safety and/or education projects do not require soil and wildlife monitoring programs.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.

4970.08. EQUIPMENT PURCHASES

- (a) Equipment purchase applications are intended to clearly identify the purchase of large and expensive equipment items.
- (b) Single equipment items to be purchased exceeding \$5,000 (excluding tax) shall be put in an equipment purchase application, rather than being included as part of an O&M application.

- (c) Multiple equipment items (each exceeding \$5,000) shall be put on a single application with each item identified.
- (d) Equipment purchased with OHV funds shall be used exclusively on OHV projects.
- (e) Each item of equipment or tool in excess of \$250, purchased with OHV funds, shall be identified as a line item in the application.
- (f) Any equipment and implements purchased with OHV funds (equal to or greater than \$30,000) shall be registered in the Division's name, used for an OHV program during the normal life of the equipment and then returned to the Division for disposal or sale. Notification to OHMVR Headquarters that an equipment item is eligible for surplus is the responsibility of the grantee.
- (g) Grantee shall keep tools and equipment purchased with OHV funds maintained, and in safe working order.
- (h) The purchase of tools or equipment exceeding \$250 not identified in the certified Project Agreement shall have written approval from the Division prior to purchase.
- (i) All equipment and implements purchased with OHV funds must display an approved version of the Department of Parks and Recreation "OHV Funds at Work" insignia. Grantees may obtain insignias free of charge from the Division.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.

4970.09. LAW ENFORCEMENT PROJECTS

- (a) Law Enforcement projects are intended for annual assistance of local and federal agencies for enforcement of OHV laws, personnel support, and training. Enforcement of OHV registration, vehicle operation, vehicle equipment, noise laws, and other such laws under CVC Division 16.5 (commencing with Section 38000), are required to obtain a Law Enforcement grant or cooperative agreement.
- (b) The level and extent of the Law Enforcement project as it applies to OHV recreation in the agency's jurisdiction must be identified.
- (c) The construction of physical barriers and other means of traffic control regulating the use of off-highway motor vehicles must be discussed.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, 5090.50, and 5090.64(b)(2), PRC; CVC Section 38000.

ARTICLE 3 - OHV GRANT APPLICATION REQUIREMENTS

4970.10. APPLICATION – GENERAL

- (a) OHV grants may be made to cities, counties, and appropriate districts, and cooperative agreements may be made with agencies of the federal government and federally recognized Native American tribes. Educational institutions and non-profit organizations (as defined in Section 501(c)(3) of the Internal Revenue Code) are eligible for grants for scientific research, natural resource conservation activities, (as defined in PRC, Section 5090.10), cultural resource conservation activities, and programs involving off-highway motor vehicle safety or education.
- (b) Applications shall be entertained once annually as long as funds are available.

- (c) A complete application shall include the information identified in the Application Requirement Matrix within the Grant Application Guide (June 2000).
- (d) All local agency OHV grant applications must include a completed Governing Body Resolution certified by the clerk of the governing body. A sample form is in the Grant Application Guide.
- (e) The Division shall establish a time line for the submission of applications; the time line may be found in the OHV Grant Application Guide (June 2000).
- (f) Funding for OHV safety and/or education programs may be awarded to federal agencies, federally recognized Native American tribes, cities, counties, appropriate districts, nonprofit organizations, and educational institutions.
- (g) Grant and cooperative agreement applications shall be made available by grantee applicants for public review and comment prior to submission of the application to the OHV Division for consideration. Applicants will hold at least one public meeting to distribute their draft applications, and receive comments on their draft applications, at least 30 days prior to submitting the final application. The meetings shall be noticed at a minimum in a local newspaper with additional notification in the agency newsletter and/or web site.
- (h) A summary of comments received from the public meeting, and how they were responded to, shall be included with the final application submitted to the Division.
- (i) All letters related to the grant application shall be included at the time of submittal of the final application to the Division.
- (j) Applications shall include the appropriate environmental documentation with regard to compliance with NEPA and CEQA requirements.
- (k) Local agencies, non-profits, and educational institutions require a 25% match for the following projects: equipment, operation and maintenance, resource management, and safety and/or education programs.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5024.1, 5090.10, 5090.32, 5090.50, and 5090.51 PRC U.S. Internal Revenue Code, Section 501(c)(3).

4970.11. CONTENT

- (a) Applications for planning projects and studies will include the following:
 - (1) A description of the planning goals and process, including public involvement, environmental setting, existing OHV opportunities, the need for expanded, managed OHV opportunities and/or problems.
 - (2) A listing and description of the study goals, objectives, and methodologies.
 - (3) Identification of any matching funds to be used.
- (b) Applications for acquisition projects will include the following:
 - (1) A summary of public input from affected stakeholders as it relates to the acquisition proposal.
 - (2) A constraints analysis including, but not limited to existing or potential conflicts and environmental constraints.
 - (3) Description of illegal OHV use in and around the acquisition property.
 - (4) An acquisition schedule.
 - (5) Parcel maps.
 - (6) A project description that identifies the total acreage involved, average cost per acre, easements, and the number of parcels.

- (7) A completed environmental document must be included as part of the application.
- (8) All agencies acquiring property under the OHV Grant Program must comply with PRC Section 5090.53 and complete the following:
 - (A) A Wildlife Habitat Protection Program to sustain viable species composition for the project area.
 - (B) Wildlife habitat, soil, plant, and cultural surveys.
 - (C) Recipient agrees to monitor the conditions of soil in the project area each year to determine whether the soil loss standard as found in the Soil Conservation Guidelines/Standards for Off-Highway Vehicle Recreation Management (11/14/91) is being met (see section 4970.14(d)).
- (c) Applications for development and major maintenance projects will comply with PRC, Section 5090.53 (include all items identified in Figure 4 – Application Requirement Matrix – OHV Grant Application Guide), and include the following:
 - (1) A description of the development and major maintenance project.
 - (2) Plans, specifications, and maps of the proposed project and area.
 - (3) All agencies must submit environmental documentation (as described under 4970.14).
 - (4) A detailed cost estimate.
 - (5) The specific dollar amount and breakdown of work that is defined as restoration (refer to the definition section of these regulations).
- (d) Applications for O&M projects will include the following:
 - (1) A map identifying the specific areas/routes that will be maintained by OHV funds.
 - (2) Resource management activities performed within the O&M project shall identify the dollar amount and scope of the activity in the application.
 - (3) O&M grants to Local Agencies require a 25% match in funds or equivalent value in services. Local agencies must identify the source of the 25% match.
 - (4) Local and Federal Agencies with multiple OHV units shall prepare a master application supported by sub-applications for each individual OHV unit.
 - (5) Where multiple sites, parks, districts, or areas are being applied for within the required single application, the master application will summarize the information contained in the sub-applications.
 - (6) O&M activities must be in accordance with local or federal land management plans.
 - (7) Each piece of equipment or tool in excess of \$250 purchased with OHV Grant Trust Funds shall be identified as a line item in the OHV grant application.
 - (8) Monitoring summary from previous OHV funded O&M project.
 - (9) Applications will discuss, as applicable, the existing situation, the status of resources, problems, and the desired outcome or results.
 - (10) A map identifying known range of state- or federally-designated endangered or threatened species and the extent of habitat for those species.
 - (11) A map in accordance with the Soil Conservation Guidelines/Standards for Off-Highway Vehicle Recreation Management (11/14/91) that identifies the types of soil and their erosion potential in the OHV areas funded by OHV funds.
 - (12) All federal cooperative agreements require environmental documentation (as described under 4970.14).
 - (13) A Law Enforcement Plan.
- (e) The Law Enforcement Plans shall consist of the following:

- (1) A map and description of existing law enforcement problems and areas, and a description of how the grant or cooperative agreement will solve those problems. Law enforcement tasks shall include, but not be limited to, enforcement of the following:
 - (A) Checking for spark arresters and current registration,
 - (B) Compliance with noise requirements,
 - (C) Prevention of illegal activity that may result in resource damage or trespass,
 - (D) Enforcement of alcohol-related laws,
 - (E) OHV-related search and rescue,
 - (F) The Law Enforcement Plan shall identify what method the public will use to seek assistance for law enforcement problems or emergencies (e.g., telephone number for District Office or County Sheriff's Department).
 - (2) A map of the OHV areas, routes, and corridors that will be patrolled and enforced with OHV funds.
 - (3) Identification of the number and classification of law enforcement personnel involved in implementing the OHV project.
 - (4) A schedule of patrols that will be conducted and the classification of law enforcement personnel used.
 - (5) The number, price, and type of enforcement signs to be purchased and installed.
 - (6) The cost of educational materials such as displays or brochures.
 - (7) All OHV grant applicants must identify whether the law enforcement problems are in areas that are identified for OHV use (as authorized by PRC 5090.50) or if the problems are occurring in areas where OHV operation is prohibited (as authorized by CVC Section 38225).
- (f) Applications for resource management projects will include the following:
- (1) A map identifying the specific areas/routes that will be monitored, repaired, restored, or surveyed using OHV funds.
 - (2) The dollar amount and scope of the activity in the application.
 - (3) The specific dollar amount and breakdown of work that is defined as restoration (refer to the definition section of these regulations).
 - (4) A monitoring program to determine the effectiveness of the measure implemented.
 - (5) Environmental documentation with regard to compliance with NEPA and CEQA requirements. A Wildlife Habitat Protection Program (WHPP) may also be applicable to this project.
- (g) Applications for safety and/or education program projects will include the following:
- (1) A description of the purpose and specific detail of the map, brochure, or educational material to be developed for the project.
 - (2) Identification of how the materials will contribute to the instruction of safe and environmentally responsible operation of OHV's.
 - (3) A cost estimate identifying the agency's contribution of 25% in matching funds, including in lieu contributions.
 - (4) No environmental documentation (NEPA, CEQA, or WHPP) is required as part of this project.
- (h) Applications for equipment Purchase projects will include:
- (1) A cost estimate of the equipment to be purchased.

- (2) A complete equipment inventory list identifying any equipment previously purchased using OHV funds. The list will include a description of the item, the model number, the registration number, and complete listing of mileage and hours used for OHV projects.
- (3) A list of equipment to be replaced with OHV grant funds, which includes a description of the item, model number, the registration number, and complete listing of mileage and hours used for OHV projects.
- (4) No environmental documentation (NEPA, CEQA, or WHPP) is required as part of this project.
- (i) Applications for law enforcement projects will include:
 - (1) A description of how OHV funds will assist local and federal agencies with enforcement of OHV laws, personnel support, and training.
 - (2) A Law Enforcement Plan as identified in 4970.11(e).
 - (3) Local agencies shall identify legal existing OHV opportunities, as well as potential areas for OHV use.
 - (4) No environmental documentation (NEPA, CEQA, or WHPP) is required as part of this project.
- (j) Administrative costs shall be identified in the application, and not exceed 10% of the total grant amount requested.
- (k) If an OHV project will require more than one year to complete, an explanation shall be provided in the application.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5024.1, 5090.10, 5090.32, 5090.50, and 5090.64, PRC.

4970.12. PROJECT ACCOMPLISHMENT REPORT (4/2000) (PAR)

- (a) "Project Accomplishment Report" (4/2000) (PAR) is a form to be completed by the grantee that provides information on an OHV project and is submitted to the Department.
- (b) A grantee shall complete a PAR for each required OHV project, a list of the types of projects that require a PAR is included in the guide.
- (c) O&M applications shall include a completed PAR for the previously funded O&M project.
- (d) Local agencies will annually seek to identify acquisition opportunities surrounding grant funded OHV facilities for the purpose of providing a buffer from existing or future conflicting land uses.
- (e) A PAR form (4/2000) is included in the OHV Grant Application Guide (June 2000); all pages of the form must be completed.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32(d), PRC.

4970.13. CONSISTENCY WITH RESOURCE, RECREATION, GENERAL, OR MASTER PLANNING DOCUMENTS

- (a) Consistency with applicable planning documents will be documented in the applications.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32 and 5090.50, PRC.

4970.14. ENVIRONMENTAL DOCUMENTATION

- (a) Applications shall include completed environmental documentation, as applicable, as required in 4970.11.
- (b) When a federal agency submits a NEPA document, Division staff shall review it for comparability to CEQA. If the NEPA document does not meet the requirements of CEQA, Division staff will work with the federal agency to obtain the missing information and will complete the necessary CEQA documentation. If the information is not received from the federal agency, no CEQA document will be prepared and no Project Agreement will be certified.
- (c) Federal agencies that have approved cooperative agreements shall develop a Wildlife Habitat Protection program in cooperation with the Division, with the exception of those applications that do not require environmental documentation according to 4970.11 of these regulations. The Wildlife Habitat Protection Program shall include the following:
 - (1) A map identifying the trails, roads, corridors, and areas that are open for use by OHVs and receive funding from the OHV fund.
 - (2) A baseline survey of the soils, and sensitive wildlife, and wildlife habitats found in the area that are open for use by OHVs and receive funding from the OHV fund.
 - (3) A monitoring program:
 - (A) The program shall be able to detect accelerated and unnatural erosion and the loss of wildlife habitat in the area that is open for use by OHVs and is maintained and managed with OHV Grant Program Funds. An annual monitoring program report shall be provided to the Division at the end of each implementation period.
 - (B) In order to assist in sustaining viable species composition, on the lands within their jurisdiction, grantees shall identify and monitor endangered, threatened, and other species of concern that are identified by the management agency, consistent with current laws and policies within the areas maintained and managed with OHV Grant Program Funds. The grantee shall also appraise the biological diversity of the areas receiving OHV Grant Program Funds as well as those factors that may contribute to the overall ecological health of the habitat within the bioregion and include this information with the annual monitoring program report.
 - (C) The Wildlife Habitat Protection Program shall specify management objectives for protecting identified species and their associated habitats. Utilizing the information gathered via the monitoring of these species and their associated habitats, the grantees shall evaluate and accordingly modify the management processes of the Program. Grantees shall discuss within the annual monitoring program report the changes to the Wildlife Habitat Protection Program that were implemented as a result of this adaptive management process.
 - (4) A resource protection program that includes but is not limited to law enforcement, public education, signing, and barriers.
 - (5) A management component that uses the above information to resolve resource issues.
 - (6) Federal land managers shall include in their grant application a list or map that identifies all roads and trails maintained with OHV funds that have been identified as non-compliant with the Soil Conservation Guidelines/Standards for Off-Highway Vehicle Recreation Management (11/14/91). Beginning with the 2001/2002 grant cycle, applications shall include a plan that identifies the roads and trails to be repaired,

relocated, or closed with a timeline when the projects are expected to be completed. A report on the status of the implementation of the plan shall be included with the annual monitoring program report.

- (d) The Soil Conservation Guidelines/Standards for Off-Highway Vehicle Recreation Management (11/14/91) is hereby incorporated by reference. The standards and guidelines that are identified in the Soil Conservation Guidelines/Standards for Off-Highway Vehicle Recreation Management are applicable to Federal agencies that are awarded cooperative agreements.
- (e) Compliance with The Wildlife Habitat Protection Program and the Soil Conservation Guidelines/Standards is required at areas maintained or managed with OHV funds from the OHV Program and will be evaluated under the stewardship criteria provided in Section 4970.32 (c) (7) for applicants to receive future grants and cooperative agreements.
- (f) The decision on whether to close an area, route, or trail shall comply with PRC 5090.35.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.10, 5090.32, 5090.35, 5090.50, and 5090.53, PRC.

4970.15. GRANTEE OBLIGATIONS

- (a) The Project Agreement in no way restricts a grantee from cooperating with or receiving cooperation from other public and private agencies, organizations, and individuals, or from accepting contributions and gifts for development, administration, and operation of OHV areas and facilities. The applicant must consider the cumulative impacts of other projects that have been conducted or planned in the OHV funded areas when completing the environmental documentation in compliance with NEPA and CEQA.
- (b) The grantee and its employees, in the performance of an OHV project, shall act in an independent capacity and not as officers or employees of the Department.
- (c) The Project Agreement shall not obligate the grantee to expend or be a part of any contract or other obligation of the fund in excess of the funds authorized by law and administratively allocated by the Division.
- (d) If a grantee does not complete a project within the time frame specified in the Project Agreement, the grantee shall notify the Division in writing what issues, reasons, or problems precluded the grantee from completing the project on schedule. The grantee will then request, in writing, permission from the Division to: (1) drop the project, (2) proceed in a second effort, or (3) proceed with a new course of action that assures completion.
- (e) Any maps, brochures, or presentations developed by a grantee to discuss an OHV program funded by the OHMVR Division, shall identify the partnership with the OHMVR Division and California State Parks by displaying a current version of the OHV Funds at Work insignia. The insignias shall be made available by the OHMVR Division.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.

4970.16. INSPECTIONS

- (a) Property and facilities developed or managed with OHV funds shall be available for inspections by the Division.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.

ARTICLE 4 – PROJECT FUNDING

4970.17. FUNDING AMOUNTS AND RECOMMENDATIONS

- (a) OHV grants and cooperative agreements shall be awarded on a competitive basis. The Division shall evaluate applications and provide recommendations to the Commission on each application, including funding level, and any applicable evaluation criteria (refer to Section 4970.32).
- (b) The Commission shall review the applications annually and consider Division recommendations, public input, and agency testimony as a basis to allocate funds.
- (c) The minimum amount of an application shall be \$5,000.00.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, and 5090.50, PRC.

4970.18. FUNDING PROCESS

- (a) The Commission shall allocate all funds approved by the Legislature for that fiscal year.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.24(d) and (f), and 5090.32, PRC.

4970.19. PAYMENTS

- (a) The Division shall develop a Payment Request Form (1/4/2000), and all payment requests submitted to the Division shall be on that form (See the OHV Grant Application Guide, June 2000). Categories of expenditures, including restoration, shall be identified on the payment request form.
- (b) The Division shall certify the Payment Request Form before any payment is made.
- (c) The grantee shall submit a Payment Request Form to the Division within the Project Performance Period as defined by the Project Agreement.
- (d) All costs claimed by the grantee shall be supported by invoice, purchase order, canceled warrant, time sheet, or by other such records.
- (e) Grantees using Force Account labor shall document expenditures with timesheets.
- (f) A cost is considered incurred at the time a purchase is delivered or a service is rendered.
- (g) Grantees may be paid in advance or on a reimbursement basis.
- (h) The Division may advance up to 100% of the OHV grant or cooperative agreement amount; the Division may fund advances in installments. Advances to all grant and cooperative agreement recipients shall be placed in a separate interest bearing account (if agency is legally able to do so). In order to spend the interest accrued from this account, the grantee must request written permission from the Division. The request must state how the funds will be spent and for what purpose. Otherwise, the interest accrued from this account must be returned to the fund.
- (i) For OHV Acquisition projects, the Division shall disburse funds for the purchase price and eligible acquisition costs when acquisition is through negotiated purchase, but not to exceed the allowable project costs set forth in the Project Agreement.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, and 5090.50, PRC.

4970.20. ELIGIBLE COSTS

- (a) The following costs are eligible for payment from the fund:
 - (1) Preliminary costs for contract preparation, acquisition appraisal, and negotiation.
 - (2) Costs for an employee directly engaged in OHV project implementation, subject to the following restrictions:
 - (A) Costs must be computed according to the prevailing wage or salary scale, and may include benefits (i.e., vacation, sick leave, and social security contribution) that are customarily charged by the grantee. Personnel benefit charges must be isolated and charged in proportion to the actual time an employee works on an OHV project.
 - (B) Costs for salary and wages claimed for an employee, working on an OHV project, must not exceed the grantee's established rate for a like position.
 - (C) Costs charged to an OHV project must be computed on actual time spent on the project and supported by timesheets and attendance records (describing the work performed on the OHV project).
 - (D) Costs for overtime may be allowed under the grantee's established policy, provided that regular full-time work was devoted to the same project.
- (b) Costs for consultation service are reimbursable if paid according to the grantee's customary established method and rate.
- (c) Consultant fees may be paid to a grantee's own employee with prior written approval from the Division.
- (d) Equipment owned by the grantee, used on an OHV project, may be charged on a "use" basis. The "use" rate charged must be equal to that normally charged by the agency. Industry rental rates may be used as a guide, if the grantee does not have an established rate. If a grantee's equipment is used, a log or source document must describe work performed, "use" hours and the log or source document shall be signed by the operator and the operator's supervisor.
- (e) Supplies and materials may be purchased for a specific OHV project or may be drawn from a central stock, provided that they are claimed at a cost no higher than they were purchased by the grantee.
- (f) When supplies and/or materials are purchased with the intention of constructing a structure or part of a structure, the cost charged as supplies and materials are capitalized according to the grantee's normal practice or policy. If capitalized, only that cost reasonably attributed to the OHV project may be charged to the OHV project.
- (g) Construction activities, from site preparation (demolition, excavation, grading, etc.) through completion of the structure or facility, are reimbursable.
- (h) Acquisition costs incurred in the acquisition of real property, including the approved purchase price of the property, appraisal, survey, preliminary title report, escrow fee, title insurance fee, and court costs on condemnation, are reimbursable.
- (i) Relocation costs that result from the displacement of a person and/or business, in accordance with Government Code Sections 7260-7277, may be charged.
- (j) Grantee insurance premiums for casual riding, hazard, and liability insurance for an OHV facility may be reimbursed by the fund.
- (k) Transportation costs for moving equipment, material, and personnel (excluding moving and relocation expenses resulting from changes in assignments) are reimbursable.
- (l) Work performed by another section or department within the grantee's agency is reimbursable.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.
Reference cited: Sections 5090.32, and 5090.50, PRC.

4970.21. INELIGIBLE COSTS

The following costs are ineligible for payment from the fund:

- (a) A cost incurred outside the project performance period as specified in the Project Agreement.
- (b) An interest expense, discount not taken, deficit or overdraft, or bonus payment.
- (c) Charges for a contingency reserve or other similar reserve.
- (d) A damage judgment against the grantee arising from the operation, acquisition, construction, or equipping of an area or trail whether determined by judicial process, arbitration, negotiation, etc.
- (e) Unapproved contract cost overruns that exceed the allowable amount identified in the Project Agreement.
- (f) Workers' compensation claims of grantee workers.
- (g) Travel claimed when no work time was claimed for the same period.
- (h) Employee relocation (moving expenses resulting from duty station or assignment change).
- (i) Charges incurred contrary to the policies and practices of the grantee.
- (j) Services, materials, or equipment obtained under any other state program.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.
Reference cited: Section 5090.32, PRC.

4970.22. OPERATION AND MAINTENANCE OF OHV FUNDED FACILITIES

- (a) Local or federal agency shall maintain facilities at a level that will ensure sustained, long-term OHV use, and conservation of natural values.
- (b) OHV funded facilities shall be used primarily for casual OHV recreation.
- (c) The grantee will operate the area or facility in accordance with the days and hours identified in the application.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.
Reference cited: Sections 5090.32, and 5090.51, PRC.

4970.23. USE OF OHV FUNDED FACILITIES

- (a) Property acquired or developed by Local Agencies with OHV funds shall be used for the purpose and time period for which the OHV funds were requested. Any use of the property other than the original purpose stated by the grantee or a third party shall have prior written approval by the Division.
- (b) The grantee shall notify the Division immediately in writing of any pending land use plan that would result in the closure of land to OHV recreation that was purchased, developed, or maintained with OHV funds.
- (c) During the life of the grant, revenue generated by local agencies on land acquired or developed with OHV funds shall be used for OHV recreation activities or related activities, in the area where the revenues are generated.
- (d) Local Agencies shall obtain written approval from the Division to spend revenue generated from any OHV funded land acquisition or development project.

- (e) During the life of the grant, the grantee shall report annually to the Division the amount of revenue generated from each OHV funded land acquisition or development project and how and where the revenues were spent.
- (f) Local Agencies may use revenues generated by the facility toward the required 25% match for O&M projects.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, 5090.50, and 5090.51, PRC.

ARTICLE 5 - PROJECT AGREEMENTS, AMENDMENTS, & RE-SCOPES

4970.24. PROJECT AGREEMENT

- (a) A Project Agreement shall be prepared for each OHV grant or cooperative agreement; the Project Agreement sets forth the terms and conditions of the project.
- (b) OHV funds are not available for expenditure until they are appropriated in the state budget.
- (c) No funds shall be disbursed until a Project Agreement for the project has been certified.
- (d) The application shall be incorporated into and made part of the Project Agreement.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, 5090.50, and 5090.53, PRC.

4970.25. AMENDMENT TO PROJECT AGREEMENT

- (a) Advanced written approval by the Division is required for changes to a Project Agreement.
- (b) An Amendment to the Project Agreement shall be certified to be effective.
- (c) Changes to a Project Agreement, prior to the advancement of all funds, shall be made through an Amendment to Project Agreement between the grantee and the Division.
- (d) If all funds have been advanced, minor changes shall be authorized through a letter from the Division to the grantee.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.

4970.26. RE-SCOPE OF PROJECT AGREEMENT

- (a) All requests for the re-scope of a project shall be in writing to the Division.
- (b) All re-scope requests shall include the following:
 - (1) An explanation of why the re-scope is necessary.
 - (2) An explanation of what will happen if the re-scope is not approved.
 - (3) The financial impact of the re-scope.
- (c) All re-scope requests shall be brought before the Commission for public review, comment, and approval.
- (d) Once a re-scope is approved, an Amendment to the Project Agreement will be prepared by the Division.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.

ARTICLE 6 - OHMVR COMMISSION

4970.27. ANNUAL APPLICATION REVIEW MEETINGS

- (a) Prior to the start of each grant cycle, the Commission shall hold one public meeting to collect public input concerning the OHV grant program, recommendations for program improvements, and specific needs for grant program areas. The Commission shall provide guidance to the Division regarding the needs, interests, and general priorities identified by the Commission in the annual public review meeting. The Division will disseminate this information to provide guidance to grantees for future funding.
- (b) The Commission shall review the applications, the Division's recommendation, and public and agency testimony.
- (c) The Division shall provide the Commission and the Resources Agency with a complete list of grant applications; other organizations and interested parties may receive a copy upon written request to the Division.
- (d) The Division shall send to the applicants, the Commission, and the Resources Agency its funding recommendations. Other organizations and interested parties may receive a copy upon written request to the Division.
- (e) Commission meeting notices will be sent to those who have requested in writing that they be put on the mailing list. The mailing list will be updated annually.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.24, and 5090.32, PRC.

ARTICLE 7 - OHV GRANT APPLICATION GUIDE

4970.28. APPLICATION GUIDE - GENERAL

- (a) The Division has developed and will make available to the public an OHV Grant Application Guide (June 2000), which is hereby incorporated by reference.
- (b) The guide shall be made available to the public in printed form and may be made available on the Off-Highway Motor Vehicle Recreation Division's Website.
- (c) The Division may make revisions to the guide as needed; revisions shall be subject to the Administrative Procedure Act (Government Code section 11340 et seq.).

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Section 5090.32, PRC.

ARTICLE 8 – ACCOUNTING, AUDITS, AND ANNUAL PERFORMANCE REVIEW

4970.29. ACCOUNTING, AUDITS, AND ANNUAL PERFORMANCE REVIEW – GENERAL

- (a) The grantee shall provide the Division a report showing total final project expenditures including state and all other moneys expended within 180 days of the completion of the project or the end of the project performance period, whichever is earlier. The report shall include a narrative of what has been accomplished with the OHV funds.
- (b) Funds advanced by the Division under the terms of the Project Agreement shall be used solely for the OHV project.

- (c) If funds are advanced to a federal agency, local agency, or nonprofit organization and not expended, the unused portion of the advance or that portion of the advance which is in excess of the actual project cost, whichever is the larger amount, shall be returned to the Division, with interest, within 60 days of project completion or end of the project performance period, whichever is earlier.
- (d) The grantee shall maintain financial accounts, documents, and records for the OHV project and shall make them available to the Division's auditor.
- (e) The Division shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to the OHV project.
- (f) The grantee shall use generally accepted accounting methods.
- (g) The grantee shall retain all financial accounts, documents, and records until the project has been audited by the Department or notified in writing of an audit waiver.
- (h) The Department may postpone, defer, or waive an audit; the grantee shall be notified in writing of such.
- (i) Upon completion of the Department audit, the grantee shall be notified in writing and will be provided a copy of the audit report.
- (j) If the audit report identifies a refund due to the Division, the grantee shall remit to the Division, within 60 days of the receipt of the audit report, the amount identified in the report.
- (k) If payment is not received within 60 days, the grantee shall be deemed delinquent. The Division shall notify the grantee in writing of its delinquent status and that future payments to the grantee may be withheld until the refund identified in the audit report has been paid in full.
- (l) When funds are advanced to local agencies, non-profit organizations, or educational institutions, the grantee shall place such funds in a separate interest bearing account, setting up and identifying such account prior to the advance. Interest earned on funds may be paid to the Division or used on the project with prior written approval from the Division and the OHMVR Commission.
- (m) Financial records shall clearly identify conservation activities such as: trail maintenance, restoration, and repair; wildlife, soils, or plant monitoring; or habitat protection activities that were financed with OHV funds. Enforcement activities shall also be clearly identified.
- (n) Annual performance reviews shall be conducted by the Division on all grants and cooperative agreements, and shall be conducted prior to the fiscal audit.
- (o) The annual performance review shall be used to determine compliance with the terms and conditions of the project agreement and list of deliverables.
- (p) Upon completion of the annual performance review, the grant recipient shall be provided with a copy of the final report.
- (q) The annual performance review report shall contain specific recommendations from the Division designed to improve the local and federal program.
- (r) Elements to be evaluated as part of the annual performance review include the following (as applicable):
 - (1) Grants Status
 - (2) Environmental Stewardship
 - (3) Facility Maintenance
 - (4) Law Enforcement
 - (5) Equipment
 - (6) Volunteer Program
 - (7) Signing

- (8) Maps
- (9) Trails
- (10) Conflicts (including the potential for future conflicts associated with urban encroachment and/or changes in adjoining land uses)
- (11) Deliverables (attached to the project agreement)
- (12) Public Outreach
- (13) Staffing Accountability
- (14) Overall Program Management
- (15) Planning Consistency
- (16) Partnership Recognition (the grantee recognizes the OHMVR Division and DPR as a partner on all signage, equipment, and publications associated with the OHV program).

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, and 5090.50, PRC.

4970.30. PROJECT TERMINATION

- (a) A grantee may unilaterally rescind a project any time prior to the commencement of the project. After commencement of the OHV project, the Project Agreement may be rescinded, modified, or amended by mutual agreement in writing.
- (b) Failure of a grantee to comply with the terms of the Project Agreement shall be cause for suspension of all obligations of the Division if, in the judgment of the Division, such failure was due to no fault of the grantee. In such case, any amount required to settle at minimum cost any irrevocable obligations properly incurred may be eligible for payment out of the fund.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, and 5090.50, PRC.

4970.31. CONSERVATION AND ENFORCEMENT SERVICES ACCOUNT

- (a) Funds allocated pursuant to Section 8352.8 of the Revenue & Taxation Code shall be expended by the Division or by cities, counties, or appropriate districts, or by agencies of the United States, solely for the following activities: (1) conservation activities carried out for the prevention or reduction of soil loss, wildlife loss, and habitat loss as defined in PRC Sections 5090.35, 5090.50, and 5090.53, and (2) enforcement activities consisting of employing, equipping, and supervising law enforcement personnel for the purpose of protecting natural and cultural resources, enforcement of Division 16.5 (commencing with Section 38000) CVC, enforcement of PRC Sections 4442 and 4442.5, enforcement of other laws regulating the equipment and use of off-highway motor vehicles, and (3) the construction of physical barriers and other means of traffic control.
- (b) The Division shall review annual expenditures to ensure the requirements of PRC Section 5090.64 are met.
- (c) The application shall identify the amount to be expended on C&E. The following must be provided:
 - (1) A description and cost of the conservation activities with maps and photographs of the area involved.
 - (2) A description and cost of the law enforcement activities.
- (d) Resource Management projects shall be considered 100% C&E.

- (e) Funds identified as C&E in the Project Agreement shall be spent only for C&E activities; C&E and non-C&E funds shall be accounted for separately.
- (f) The following activities are considered conservation:
 - (1) Soil, habitat, and wildlife monitoring.
 - (2) Activities to prevent soil erosion and activities to repair existing soil erosion.
 - (3) Wildlife habitat enhancement projects.
 - (4) Aerial photography.
 - (5) Wildlife, habitat, and soil studies.
 - (6) Temporary closure of trails or areas, or closure and restoration of unauthorized trails and trails not in compliance with PRC Section 5090.35(d), and (e).
 - (7) Reduction of dust related to OHV recreation.
 - (8) Reduction or prevention of siltation related to OHV recreation into streams.
- (g) The following are considered enforcement:
 - (1) Law enforcement personnel, law enforcement officers (LEOs), and Federal technicians with citation authority who patrol the roads, trails, and areas that receive funds from the OHV Program.
 - (2) Installation of barriers and signs to prevent resource damage.
 - (3) Reduction of noise impacts of OHVs on people and wildlife through the enforcement of noise regulations found in CVC Section 38370.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.32, 5090.35, 5090.50, 5090.53, and 5090.64, PRC; Section 8352.8, Revenue & Taxation Code; Sections 38000 and 38370, CVC.

4970.32. EVALUATION CRITERIA

- (a) OHV grants and cooperative agreements shall be awarded on a competitive basis.
- (b) Each application shall be evaluated by Division staff and the Commission based on established criteria.
- (c) The criteria used to evaluate applications shall include:
 - (1) Past and/or Expected Use: Past OHV attendance figures (five years) shall be based on the PARs submitted by the applicant. Expected use shall be based on historic use plus any expected increase due to current or future conditions. A PAR for the previous funded year project shall be included in the application.
 - (2) Application Content and Quality: The application shall provide adequate information for the Division, Commission, and public to evaluate the project. The information provided is complete, current, clear, and concise.
 - (3) Public Input: All letters commenting on the grant received by the applying agency shall be included in the application. Letters written to the Division regarding applications shall be included in the Commission packet.
 - (4) Demand: Is there a demonstrated need for the project? Will the project sustain, expand, or create OHV opportunity?
 - (5) Existing OHV Opportunity: The application shall identify the legal OHV opportunities that exist within a 50-mile radius of the project area. Changes in OHV opportunity in the last two years (e.g., miles of trails or acres of OHV riding opportunity) shall also be identified.

- (6) Types of Vehicles/Uses: Types of vehicles currently using the area. In addition, types and extent of non-motorized use of OHV funded facilities, trails, and open areas.
- (7) Stewardship: Previous grants and cooperative agreements shall have been completed on time; payment requests have been submitted on time; and audits of completed projects have found few, if any, problems or discrepancies.
- (8) Environmental Stewardship: The applicant shall have a Forest Plan or Land Management Plan in place. The applicant shall have developed a Wildlife Habitat Protection Program, soil monitoring program, and the annual monitoring program report shall have been provided to the Division (if applicable). The applicant shall have provided an update of their route inventory and designation status (if applicable). Inspections by the grant administrator have found few problems. The grantee has provided the Division with maps of roads, trails, and areas that are funded with OHV funds.
- (9) CEQA / NEPA: The application shall include completed environmental documentation prepared for the project.
- (10) Useful Life: The area or facility shall be available for long-term use. The application shall identify known or anticipated threats to the longevity of OHV use (e.g., endangered species, urban expansion, wilderness expansion, or management plans).
- (11) Future Commitment: The commitment of applicant funds toward O&M of the new acquisition or development, and the amount of funds that shall be required annually for O&M shall be identified.
- (12) Volunteer Programs: The application shall provide information on the expected use of volunteers and the extent of the current volunteer program (e.g., number of active participants, hours volunteered, and the amount of funds used to run the program).
- (13) Program Effectiveness: Current, and anticipated future visitation, miles/acres of opportunity, facilities, amount requested, and grantee contributions shall be taken into consideration.
- (14) Use Conflicts: The application shall have identified methods to address and reduce conflicts between motorized uses and adjacent landowners and land uses.

NOTE: Authority cited: Sections 5001.5 and 5003, PRC.

Reference cited: Sections 5090.23, 5090.24(f), 5090.32, and 5090.50, PRC.